IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 2724 of 2007(Y)

CC.721/2004 of J.M.F.C.-II,KOTTARAKKARA

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PETITIONER:

SIVAPRASAD, S/O.CHANDAGADHAN,
ANATTUTHEKKATHIL VEEDU, THAZHUTHALA, KOTTIYAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS:

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1. SAUDHABEEVI, D/O.SUBAIDHA BEEVI,
OTTAPLAVILA VEEDU, PAYYAKOTTU P.O., POOYAPPALLY,
KOTTARAKKARA.

2. AHAMMED, OTTAPLAVILA VEEDU,
PAYYAKOTTU P.O., POOYAPPALLY, KOTTARAKKARA.

3. NAVAS, SHABIJA MANZIL, KOTTIYAM,
ADICHANALLOOR, THAZUTHALA CHERRY, KOLLAM.

4. KUNJUAHAMMED HAJI, S/O.ABDULLA,
KODIYATHU VEEDU, MAYYANNOOR P.O.,
VADAKKARA TALUK.

5. JAYAKUMAR, SUB INSPECTOR,
POOYAPPALLY, KOLLAM.

6. VASUDEVAN, ASSISTANT SUB INSPECTOR,
POOYAPPALLY, KOLLAM.

7. D.RAJAN, CIRCLE INSPECTOR,
CHATHANNOOR.

BY PUBLIC PROSECUTOR SRI GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.2724 of 2007

Dated this the 19th day of February, 2007

JUDGMENT

The grievance of the petitioner, who is the complainant in a prosecution, inter alia, under Section 420 read with 34 I.P.C is that the learned Magistrate is hurriedly proceeding with the trial of the case though the presence of the 7th accused has not been secured. No serious efforts have been made to procure the presence of the 7th accused so far though he had earlier entered appearance through counsel and had sought time to appear.

2. Report of the learned Magistrate was called for. The learned Magistrate reports that every effort is being made to secure the presence of the 7th accused. The case, I find, is an old one, the same having been registered as C.C.No.721 of 2004. I have no hesitation to agree with the learned counsel for the petitioner that every effort must be made by the learned Magistrate to secure the presence of the 7th accused before commencement of the trial and if such presence cannot be secured, splitting up of the case has got to be done in accordance with law and after observing the procedure in accordance with law. I accept the report of the learned Magistrate, wherein it is stated that the Director General of Police, Kerala has been addressed to secure the presence of the 7th accused on or before

12.03.2007, the next date of posting of the case. No further directions appear to be necessary in this Writ Petition.

3. This Writ Petition is, accordingly dismissed.

(R.BASANT, JUDGE)

rtr/-